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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/659,256	09/11/2000	Alan S. Krech JR.	10001846-1	5584

22878 7590 10/23/2003

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EXAMINER

SHRADER, LAWRENCE J

ART UNIT	PAPER NUMBER
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2124

DATE MAILED: 10/23/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/659,256

Applicant(s)

KRECH ET AL.

Examiner

Lawrence Shrader

Art Unit

2124

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

THE REPLY FILED 29 September 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

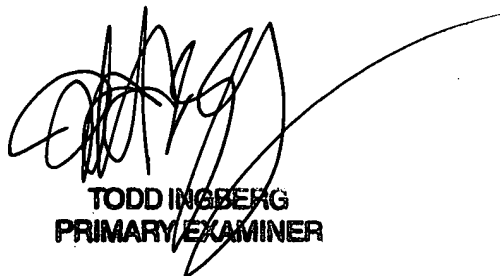
8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s).
10. ☒ Other: See Continuation Sheet

TODD INGBERG
PRIMARY EXAMINER

1. Continuation of 10. Other: The amended Abstract will be entered upon submission of an appeal.

2. In response to applicant's argument on page 4 of the Response to Final Office Action that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). Claim 1 describes a flag selection memory in terms of a multistage multiplexer, as argued in the final office action. Therefore, it would have been obvious to one skilled in the art to modify the branch judging unit of the Kamiyama invention with the multistage multiplexer of Vidwans in order to select the branch flag in accordance with claim 1 because one of ordinary skill in the art would recognize an equivalent configuration in the two inventions because the condition judging unit of Vidwans in Figure 6 is described as a "logical circuit responding to various judging conditions..." (column 4, lines 48 - 52). The 2 stage multiplexer of Kamiyama serves the same function, and both are controlled by branch signals.

3. In response to the applicant's argument on page 6 of the Response to Final Office Action that Ochai "suggests that a branch address may be part of a branch instruction, and does not suggest that a compiler assigns 'values for a flag selection memory' as claimed," and additionally on page 7 that neither the "Kamiyama, Vidwans, nor Ochai patent supplies teachings for all the claim elements and limitations." See the Ochai reference figure 4, and column 3, lines 60 - 65 where the flag field is added to a conditional branch instruction and used as a value for the selection logic. Therefore, all the teachings for all the claim elements and limitations are present in the combination of Kamiyama, Vidwans, and Ochai.



TODD INGERBERG
PRIMARY EXAMINER